

REMARKS

This Amendment and Response is accompanied by a Request for Continuing Examination. Continued Examination and entry of the claims as presented above is respectfully requested, with reconsideration of the present case in view of the above amendments and the following remarks.

Claims 1, 4-5, and 12-24 are currently pending with claims 5, 12 and 14-22 being presently withdrawn pending rejoinder. Claim 11 is cancelled without prejudice or disclaimer as duplicating claim 5. Claims 14-24 have been added. No new matter has been added. Support for amendments to claim 1 and new claim 14, are found throughout the specification, including original claims 1 and 6, as well as pages 3-4. Support for new claims 15-24 is found throughout the specification, including for example, original claims 6 and 10, as well as: page 1 – Field of the Invention, page 8, lines 20-21, and page 10, lines 14 –22 and Table 4 on pages 11-25. Support for claims 22-24 is found throughout the specification, including for example page 28, lines 5-8.

The pending claims of the present application were previously subjected to restriction. The elected group is directed to media compositions. Claims 5 and 12 directed to methods of making the media compositions were withdrawn. New claims 15-22 are directed to a method of using the elected media compositions. Applicants respectfully request entry of these claims into the application, and have designated them as "Withdrawn". Upon allowance of the claims to the media compositions, Applicants respectfully request rejoinder of withdrawn claims 5, 12, and 15-22 as being methods of making and methods of using respectively with limitations corresponding to that of the media composition claims.

35 U.S.C. § 103(a)

Claims 1, 4 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over JP 360196185A in view of Gottlieb (U.S. Patent No. 3,188,272). Applicant respectfully traverses this rejection.

In order to establish a prima facie case of obviousness, three basic criteria must be met, namely: 1) the references when combined must teach or suggest all of the claim limitations; 2) a suggestion or motivation to modify the references or combine the reference teachings must be present; and 3) the references when combined must provide a reasonable expectation of success. Applicants submit that all of these requirements have not been met.

The claims are directed to a **minimal media** consisting essentially of monobasic potassium phosphate; ammonium chloride; heptahydrate magnesium sulfate; saccharose; and water for culturing organisms such as fungi and/or yeast. The claimed media is contrasted with conventional medias. In particular, these conventional medias contain ingredients derived from other organisms, such as: yeast extract, digested casein, and/or peptone to supply necessary nutrients. See page 3 of the specification. Advantages of avoiding ingredients such as yeast extract generally include improved shelf life and reduced cost. See pages 25-26. The claimed minimal media has been demonstrated to efficiently evaluate colony counts such as fungi and/or yeast contamination in food processing installations as compared with conventional medias.

JP 360196185A discloses a semi-synthetic culture medium for yeast, which includes ammonium chloride, magnesium sulfate, saccharose, and yeast essence. Therefore, JP 360196185A does not disclose the fully synthetic minimal media of the present invention which does not include non-synthetic ingredients such as yeast extract (i.e. yeast essence). Gottlieb fails to cure the deficiencies of JP 360196185A. Gottlieb discloses various conventional medias containing one or more of yeast extract, peptone, beef extract, soybean meal, Brewer's yeast, etc.... JP 360196185A and Gottlieb, either alone or in combination does not teach the claimed culture media consisting essentially of monobasic potassium phosphate, ammonium chloride, heptahydrate magnesium sulfate, saccharose, and water. Therefore, the combination of JP 360196185A and Gottlieb fails to teach or suggest the invention of claim 1.

A prima facie case of obviousness further requires some suggestion or motivation to combine the references. See MPEP § 2143. The combination of the teachings of JP 360196185A with Gottlieb would require selective reconstruction in order to arrive at the claimed media. Neither JP 360196185A nor Gottlieb provide any guidance for selection of only particular disclosed ingredients and exclusion of other ingredients, such as yeast extract. In this

case, Applicant asserts that there is no motivation to combine JP 360196185A with Gottlieb to result in the invention as claimed. Furthermore, there is no teaching in JP 360196185A and Gottlieb that would suggest that omission ingredients providing large quantities of nutrients, such as yeast extract, peptone, or Brewer's yeast could be excluded from the medias taught by JP 360196185A and Gottlieb and still result in a functional media.

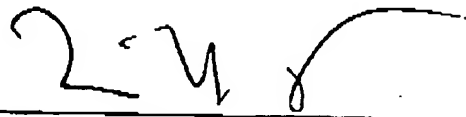
For at least these reasons, the combination of JP 360196185A with Gottlieb fails to render claim 1 obvious. As claims 4, 13-16 and 24 are dependent on claim 1, they are also not rendered obvious. Applicant respectfully requests that this rejection be withdrawn.

Summary

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,
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